

2526/207-131



AF/1771

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By: [Signature]

Date: October 27, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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GROUP 1700

Applic. No. : 09/501,013
Applicant : Friedhelm Beckmann
Filed : February 9, 2000
Title : Sound and Heat Insulation Material
Examiner : Norca Liz Torres-Velazquez
Docket No. : 2526/207-131
Group Art Unit : 1771
Customer No. : 24131

REPLY BRIEF

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

S i r :

This is a *Reply Brief* responding to the *Examiner's Answer* mailed August 27, 2003.

Arguments:

On page 6 of the Examiner's Answer, the Examiner maintained the position that:

... the "core layer" of the present invention equates [with] the "protective [cover] layer 12" of Murch, and the "covering layer" of the present invention equates with the "intumescent layer 11" of Murch; and not the other way as Appellants concludes ... in view of the provided definition for the term "core".

Appellant not only relied on the definition of the term "core" but also on the definition of "cover" and "outer surface" to conclude that the "core layer" of the present invention can only be equated with the "intumescent layer 11" of *Murch*, and that the "covering layer" of the present invention can only be equated with the "cover layer 12" of *Murch*.

The use of "said" before the limitation "at least one outer surface" in the second paragraph of claim 1 makes it clear that the limitation "at least one outer surface" in the second paragraph of claim 1 refers to the same limitation as introduced in the first paragraph on claims 1. Consequently, claim 1 recites that:

- there is at least ONE outer surface [first paragraph in claim 1]; and
- the OUTER surface(s) are (all) covered by the cover layer [second paragraph in claim 1].

For example, if there were two "outer surfaces", the second paragraph of claim 1 would require that both "outer surfaces" be covered by the "covering layer".

Appellant believes that claim 1 clearly recites that the "covering layer" covers all the "outer surface(s)" of the "core layer". Claim 1 also recites that the "covering layer" foams at a given temperature to **insulate** the "core layer". It is believed that this makes it clear that the "covering layer" covers the "outer surface(s)" of the "core layer", and therefore, the "covering layer" must be the **outer** layer.

In the second paragraph on page 6 of the Examiner's Answer, the Examiner stated that:

The claim as written does not indicate that the covering layer encloses, surrounds, or encapsulates the core layer

In the present invention, the "core layer" could be in a shape that has only ONE outer surface; for example, if the "core layer" is in the shape of a round ball. Assuming that this "core layer" is free-floating in space, according to the present invention as recited in claim 1, the one "outer surface" of the "core layer" would be completely covered by the "covering layer", i.e. the "core layer" would be **enclosed** by the "cover layer".

In the second paragraph on page 6 of the Examiner's Answer, the Examiner stated that "[t]he language used in the claims indicates two layers."

There might be a surface (an inner surface) of the "core layer" which is in contact or attached to a supporting wall or other structure; however, this inner surface is not an outer surface. Assuming that the "core layer" would be in the shape of a layer where one side would be completely covered by a wall or a supporting structure, then the Examiner would be correct that the insulation material of the present invention would consist of only two layers. However, according to the present invention, the "outer surface" of the "core layer" would still be covered by the "covering layer", thereby enclosing the "core layer".

Col. 7, lines 55-57, of *Murch* states:

A protective cover layer is applied to the **outer** surface of the intumescent layer. This **outer** protective **layer** must be composed of a flexible material.

(Emphasis added.)

Consequently, the "core layer" of the present invention can only be equated with the "intumescent layer 11" of *Murch*, and the covering layer can only be equated with the "cover layer 12" of *Murch*, as shown in Figs 1 and 2 re-produced below:

FIG. 1

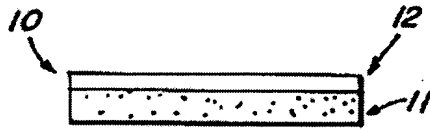
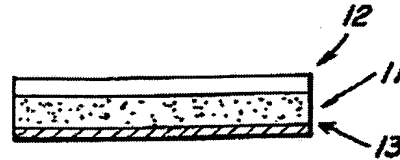


FIG. 2



The characteristics and properties of the " protective cover layer 12" is disclosed in detail in *Murch* between col. 7, line 55, through col. 9, line 4. There is no disclosure or suggestion in *Murch* that the " protective cover layer" is foamable and foams at a given temperature to insulate the core, unlike the present invention as recited in the claims.

There is no disclosure in *Murch* that the "intumescent layer 11" contains a fire retardant additive. *Murch* only discloses that the "intumescent layer 11" has (inherent) fire-retardant properties (see for example col. 1, lines 19-20, lines 37-38). The disclosure in *Murch* suggests that the fire-retardant properties of the "intumescent layer 11" is due to the foaming of the intumescent component in the "intumescent layer 11" and not due to a fire retardant additive *per se*.

Accordingly, it is believed that *Murch* shows neither a foamable covering layer nor a core layer containing a fire retardant additive, as recited in claim 1 of the instant application. Consequently, the invention as recited in claim

1 of the instant application is believed not to be anticipated by *Murch*.

Dependent claim 2 recites "at least one further foamable material, said at least one further foamable material being foamable at a further given temperature different from said given temperature." There is no disclosure or suggestion in *Murch* of a further foamable material as recited in claim 2. Consequently, the invention as recited in claim 2 of the instant application is believed not to be anticipated by *Murch*.

The inventive concept of the invention of the instant application is to produce an insulation material using a foamable cover layer to cover the outer surface(s) of a core layer containing a fire retardant additive. When subjected to heat, the foamable cover layer foams, thereby, insulating the core layer from high temperatures and oxygen. Since the core layer is completely insulated from the exterior by the foaming, the inflammation temperature is not reached and no oxygen, can reach the core layer. In contrast, the inventive concept of *Murch* is to protect an intumescent layer from leaching out the intumescent component by placing a protective layer on top of the intumescent layer.

It is accordingly believed to be clear that *Murch* does not show the features of independent claim 1 and dependent claim 2. Claims 1 and 2, therefore, believed to be patentable over the art and because claims 3-22 are ultimately dependent on claim 1, they are believed to be patentable as well.

The honorable Board is therefore respectfully urged to reverse the final rejection of the Primary Examiner.

Respectfully submitted,



For Appellants

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